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Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 9

FRED FERNANDEZ,

Appellant,

v.

THOMAS J. MACKELL, District Attorney of Queens County, and LOUIS J. LEFKOWITZ, Attorney General of the State of New York,

Appellees.

SUPPLEMENTAL BRIEF OF APPELLANT FERNANDEZ BEFORE THIRD ORAL ARGUMENT 1970-1971 TERM

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IN THE SUPREME COURT OF THE UNITED STATES

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Because the issues raised by this appeal are of on-going concern to this Court, which has called for a third oral argument, Appellant Fernandez requests leave to file yet one more brief[1] in an attempt to persuade the Court to the justice of his cause and of the necessity for this Court's

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[1] Appellant has filed with this Court four briefs in the within case: Brief for the Appellant, Reply Brief for Appellant, Fernandez, Supplemental Brief after Argument and Before Reargument and Reply Brief after Argument and Before Reargument

intervention in his prosecution by the State of New York. That prosecution is predicated on unconstitutional state law and infected by the unfairness invariably associated with deprivation of First Amendment rights, which this Court has long condemned.

Appellant's four briefs already on file argue at length the unconstitutionality of the New York anarchy law, the *Gitlow* and now *Gitlow-Epton* statutes (Penal Law §§160 *et seq.*), and challenge, in addition, the constitutionality of the statutes providing for the grand jury which indicted appellant.

Before this Court can reach the issue of the claimed unconstitutionality of the state statutes, however, a threshold question of great importance must be answered. That question involves the delicate balance between state and federal jurisdictions. In this case a state criminal proceeding had already been initiated in the courts of New York State. The original indictments against appellant and his co-defendants were returned on June 22, 1967. These indictments were dismissed upon motion of the defendants below on January 10, 1968.[2] Appellant and others were reindicted by the same grand jury on January 15, 1968—on a time schedule which, as a practical matter, prevented appellant from moving in the federal court in the intervening five days (notice of Justice Shapiro's ruling was given counsel at the re-arraignment of appellant on January 18, 1968). In all events, this case squarely raises the issue of the propriety of a federal court's enjoining a state criminal proceeding which has already commenced—an issue expressly left open for decision by this Court in *Cameron v. Johnson*, 390 U.S. 611 (1968).

It will be appellant's contention to be urged *infra* that the facts of this case entitle appellant to injunctive relief. Injunctive relief looks, however, to the future and may have sweeping effect; such relief from the federal courts,

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[2]*People v. Ferguson*, 55 Misc. 2d 23, 286 N.Y.S. 2d 924.

therefore, raises in the state courts the hackles of state sovereignty in addition to raising the specific question of judicial interpretation of 28 U.S.C. §2283. Nonetheless, there is no contention at this time that the New York courts would not respect a declaratory judgment on the issue of the constitutionality of state statutes here challenged. *Douglas v. City of Jeanette*, 319 U.S. 157 (1943); *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Dombrowski v. Pfister*, 380 U.S. 479, 485 (1965); *Zwickler v. Koota*, 389 U.S. 241 (1967).

Appellant urges herein that considerations of abstention be set aside and that this Court declare the New York anarchy laws unconstitutional.

The lower federal courts are divided on the issue of whether or not 42 U.S.C. §1983 is an express exception to the anti-injunction statute 28 U.S.C. §2283. See Maraist "Federal Injunctive Relief Against State Court Proceedings: The Significance of Dombrowski," 48 Texas L. Rev. 535 (1970) and "The Federal Anti-injunction Statute and Declaratory Judgments in Constitutional Litigation," 82 Harv. L. Rev. 1870 (1970).

Appellant is aware that the relief he seeks here is not only "strong medicine" but that the delicate balance between state and federal jurisdictions should not lightly be disturbed either by injunctive or by declaratory interference in pending state litigation. This Court, however, has long held high the rights reserved to the citizen by the First Amendment and has championed the individual against the state where that conflict is squarely raised. *McNeese v. Board of Education*, 373 U.S. 668, 671, 672 (1963), *Baggett v. Bullitt*, 377 U.S. 360, 378, 379 (1964). Historically, the rights protected by the First Amendment assume their crucial importance most clearly in times, as now, of social and political crisis when the citizenry and the electorate need most urgently to hear the voices of unpopular minority dissent.

Appellant has proposed four criteria against which to view the actions of this Court and which compel action by this Court in declaring the New York *Gitlow-Epton* statutes unconstitutional for the same defects of vagueness and overbreath that this Court has already attached to these statutes in *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

These criteria arise directly from the special circumstances of the case at bar; they involve the First Amendment considerations that make appropriate the extraordinary relief requested.

First: The anarchy charges in this case are predicated upon the petitioner's engagement in the public business—politics and government—in the sense spoken of by Alexander Meiklejohn[3] and discussed by this Court in *Red Lion Broadcasting Co. v. F.C.C.*, 395 U.S. 367, 390 (1969), cf. *New York Times v. Sullivan*, 376 U.S. 254, 270 (1964). The counts charging appellant with anarchy and conspiracy to advocate criminal anarchy (counts 1, 2, 3, 4) concern themselves, exclusively, with his acts of speech, printing and association; they allege advocacy of "force and violence" on the basis of handbill expressions of personal outrage and political dissent, as set out in documents referred to in the indictment entitled "Total Resistance", "Community Self Defense", "The Struggle for Black State Power in the United States" [see Appendix pp. 17-23]. See in this connection "Black Power Advocacy: Criminal Anarchy or Free Speech," 56 Cal. L. Rev. 702 (1968).

Second: Any relief via the state route has been foreclosed in this case by *People v. Epton*, 19 N.Y. 2d 496, 227 N.E. 2d 829 (1967), cert. den., app. dism. 390 U.S. 29 (1968), reh. den. 390 U.S. 976 (1968), appl. reh. den. 398 U.S. 944 (1970). Federal abstention may indeed be in order where it might be anticipated that a state high court would make federal intervention unnecessary; that is not the situation here. With respect to the holding by the New

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[3] *Free Speech in its Relation to Self-Government:* Harper & Row (1948).

York State Court of Appeals in *Epton*, appellant contends that court did not succeed in its attempt to narrow the vague and overbroad provisions of Penal Law §§ 160 *et seq.* [See Supplemental Brief After Argument and Before Argument, pp. 2-12, Reply Brief After Argument and Before Reargument, pp. 11, 12.]

As to the holdings by the New York State Court of Appeals appellant now, in particular, challenges the proposition and concept that a state in the United States can appropriately make a crime of advocacy of the overthrow of a state government.[4] In 1788 when New York became a part of the Union it ceded essential aspects of its sovereignty. If the Capitol in Albany were stormed and a rebel flag raised above Governor Rockefeller's new state buildings, would this not constitute a threat to the nation provoking prompt federal remedy and action?

The New York Court of Appeals did not take on this issue in its attempt to give a new and constitutional gloss to the 1902 statutes; rather it specifically read into the statute the requirements of 1) intent to overthrow the state government and 2) "clear and present danger" that the overthrow may be attempted or accomplished. In applying the law thus newly refurbished law to Epton, however, it held sufficient under the anarchy charges that Epton's "exhortations (all speech) . . . created a 'clear and present danger' that the riots then rocking Harlem would be intensified or, if they subsided, rekindled." (19 N.Y. 2d 506)

The state court gave only lip reference to "clear and present danger;" it did not, from any analysis or citation of the facts of the case, find any imminentness of conduct that the state has a right to proscribe, as most recently dis-

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[4]When the legislature amended Penal Law §§ 160 *et seq.* in 1965 with Penal Law § 240.15, it tried to confine the "advocacy of overthrow" to the government of the State of New York; the official commentator said, perhaps with this consideration in mind, "concededly an offense of limited utility." [See "Practice Commentary", McKinney's Consolidated Laws (1967).]

cussed by this Court in *Brandenberg v. Ohio*, 395 U.S. 444, 449 (1969). It further dismissed, with cavalier disregard of the rights of the citizen, considerations of notice, equally applicable to Fernandez (indicted barely a month after the *Epton* ruling) as well as to Epton, as developed by this Court in *Bouie v. City of Columbus*, 378 U.S. 347 (1963) and more recently in *Shuttlesworth v. City of Birmingham*, 394 U.S. 147 (1969). Appellant is thus foreclosed from any hope of relief from his state's highest court in this prosecution.

This second reason for granting relief was not available to appellants in *Dombrowski v. Pfister*, 380 U.S. 479, 499 (1965); it is clear here, as it was not there, that the "state courts will not be as prone as federal courts to vindicate constitutional rights promptly and effectively."

Third: Because the charges against appellant associate conspiracy to commit arson in the third degree with anarchy and conspiracy to advocate anarchy, and because a conviction on the conspiracy-arson charge and the anarchy charges could bring a concurrent sentence as in *Epton* (Judge Burke in *Epton*, 19 N.Y. 2d 512, Justice Stewart 390 U.S. 29), review by this court on *certiorari* or appeal might well be barred or declined. While *Benton v. Maryland*, 395 U.S. 784 (1969) would seem to hold otherwise, this Court does not always decide to hear every issue involving claimed injustice.

It is here urged upon this Court, moreover, that the present prosecution is most certainly one brought under a state statute that attempts to legislate speech and association and so is one that commands the historic sovereign concern of the Federal courts. Considering the long wait under the very best of circumstances between the bringing of the prosecution[5] and the appellant's (rightful as well as hopeful)

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[5]As the record shows this appellant has been under indictment since June 1967. Certainly his own activities have been affected by this fact.

vindication, such prosecution cannot result otherwise than in the stifling of appellant's political activities. *Dombrowski v. Pfister*, 380 U.S. 479, 485 (1965). Moreover, when a trial in which a recognized state charge of criminal action (e.g.: conspiracy to commit arson in the third degree, as in this case, or conspiracy to commit riot, as in *Epton*) is compounded with unconstitutional anarchy charges, that trial is bound to produce a trial record polluted (as in *Epton*) with matter that would be excluded by the workings of due process (e.g.: evidence as to criminal intent predicted upon and borrowed from the defendant's expression of unpopular or extreme political views, as in *Epton*).[6] Long before this nation adopted its Bill of Rights, the Lord Chancellor Coke had concluded: "The Devil himself cannot try the soul of a man."

Fourth: Appellant alleges in his complaint the unfairness of the entire prosecution. In this connection he urges the bad faith of the prosecution underlined by press releases at or about the time of his indictment. See Brief for Appellant, Appendix C, p. 65. The court below ignored this claim and decided the case in the absence of any finding on the issue. *Dombrowski* developed such a claim as an appropriate issue for consideration by a federal court where an injunction is sought against state proceedings. At this juncture, this Court might, as to this claim, send the issue back to the District Court for a hearing. *Cameron v. Johnson*, 381 U.S. 741 (1965).

Appellant is loathe to suggest this result, though some finding of fact would seem to be in order for the invocation of the drastic equity action represented by an injunction. Considerations of fairness and the early rather than later determination of criminal cases would urge more conclusive action by this Court at this time.

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[6] In fact Appellee Mackell, the Queens District Attorney intends to borrow the intent from the anarchy statutes to fill out the element of illegality as to the other charges. See Brief for Appellee Mackell, pp. 5, 32. Brief on Reargument for Appellee District Attorney, pp. 10, 37.

Accordingly appellant urges that this Court issue a declaratory judgment, at last declaring the New York anarchy statutes unconstitutional and beyond the reach of judicial plastic surgery. *Brandenberg v. Ohio*, 395 U.S. 444, 449 (1969) has so made the Ohio criminal syndicalism law; *Whitney v. California*, 274 U.S. 357 (1927), upholding the California counterpart of the New York *Gitlow* statutes, has there been overruled. *Zwickler v. Koota*, 389 U.S. 241 (1967) invokes principles as to the appropriateness of a declaratory judgment peculiarily applicable to the case at bar. On the four grounds recited above, appellant here urges that *Zwickler* furnishes ample authority for this Court's intervention in the state action against him.

There remains one claim by appellant that the New York Judiciary Law sections providing for the impaneling of the state grand jury are unconstitutional and should be enjoined or declared invalid. Although it it apparent, that at least as to the $250 property requirement [Jud. Code §596(3)], that statute is unconstitutional on its face, the logic of appellant's foregoing argument would foreclose injunctive or declaratory relief on this issue—that argument being predicated upon the paramount nature of First Amendment rights. The New York Court of Appeals has ruled constitutional the statutes and the procedures followed pursuant to them in *Chestnut v. New York*, 26 N.Y. 2d 481 (1970). This Court may yet have an opportunity to rule on this issue *U.S. ex rel Chestnut v. New York*, Docket No. 70 Civ. 2942 (S.D.N.Y.). Appellant concedes that the issue is not ripe for determination here under the standards now urged on this Court, to declare the New York judiciary laws unconstitutional.[7]

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[7] Appellant nonetheless protests the apparent gratuitous finding by the court below of the validity of the statutory $250 property requirement merely because it was not enforced by the County Clerk —this in the absence of a factual hearing on the issue [Appendix, p. 68].

CONCLUSION

This Court should reverse the court below and declare the New York anarchy laws unconstitutional.

Respectfully submitted,

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September, 1970

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

NOS. 7 AND 9.—OCTOBER TERM, 1970

George Samuels et al., Appellants,
7 *v.*
Thomas J. Mackell, District Attorney, et al.

Fred Fernandez, Appellant,
9 *v.*
Thomas J. Mackell, District Attorney, et al.

On Appeals From the United States District Court for the Southern District of New York.

[February 23, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

The appellants in these two cases were all indicted in a New York state court on charges of criminal anarchy, in violation of §§ 160, 161, 163, and 580 (1) of the New York Penal Law.[1] They later filed these actions in federal district court,[2] alleging (1) that the anarchy statute was void for vagueness in violation of due process, and an abridgment of free speech, press, and assembly, in violation of the First and Fourteenth Amendments; (2) that the anarchy statute had been pre-empted by federal law; and (3) that the New York laws under which the grand jury had been drawn violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment because they disqualified from jury service

[1] These provisions were repealed effective September 1, 1967, and a new criminal anarchy statute, in somewhat different form, took effect on the same date.

[2] The complaint in No. 7 was filed in the Southern District of New York. The complaint in No. 9 was originally filed in the Eastern District, but was later transferred to the Southern District by consent.

any member of the community who did not own real or personal property of the value of at least $250, and because the laws furnished no definite standards for determining how jurors were to be selected. Appellants charged that trial of these indictments in state courts would harass them, and cause them to suffer irreparable damages, and they therefore prayed that the state courts should be enjoined from further proceedings. In the alternative appellants asked the District Court to enter a declaratory judgment to the effect that the challenged state laws were unconstitutional and void on the same grounds. The three-judge court, convened pursuant to 28 U. S. C. § 2284, held that the New York criminal anarchy law was constitutional as it had been construed by the New York courts and held that the complaint should therefore be dismissed. 288 F. Supp. 348 (D. C. S. D. N. Y. 1968).[3]

In No. 2, *Younger* v. *Harris*, we today decided on facts very similar to the facts in these cases that a United States District Court could not issue an injunction to stay proceedings pending in a state criminal court at the time the federal suit was begun. This was because it did not appear from the record that the plaintiffs would suffer immediate irreparable damages in accord with the rule set out in *Douglas* v. *City of Jeannette*, 319 U. S. 157 (1943), and many other cases. Since in the present case there is likewise no sufficient showing in the record that the plaintiffs have suffered or would suffer irreparable damages, our decision in the *Younger* case is dispositive

[3] The court also said that even if its view on the merits was wrong, relief should be withheld because the statutes being challenged were no longer in effect. With respect to the plaintiffs' challenge to the selection of the grand jury, the District Court held, in reliance on *Douglas* v. *City of Jeannette*, 319 U. S. 157 (1943), that this claim could be effectively presented to the New York courts and therefore did not call for federal intervention at this stage.

of the prayers for injunctions here. The plaintiffs in the present cases also included in their complaints an alternative prayer for a declaratory judgment, but for the reasons indicated below, we hold that this alternative prayer does not require a different result, and that under the circumstances of these cases, the plaintiffs were not entitled to federal relief, declaratory or injunctive. Accordingly we affirm the judgment of the District Court, although not for the reasons given in that court's opinion.

In our opinion in the *Younger* case, we set out in detail the historical and practical basis for the settled doctrine of equity that a federal court should not enjoin a state criminal prosecution begun prior to the institution of the federal suit except in very unusual situations, where necessary to prevent immediate irreparable injury. The question presented here is whether under ordinary circumstances the same considerations that require the withholding of injunctive relief will make declaratory relief equally inappropriate. The question is not, however, a novel one. It was presented and fully considered by this Court in *Great Lakes Co.* v. *Huffman*, 319 U. S. 293 (1943). We find the reasoning of this Court in the *Great Lakes* case fully persuasive and think that its holding is controlling here.

In the *Great Lakes* case several employers had brought suit against a Louisiana state official, seeking a declaratory judgment that the State's unemployment compensation law, which required the employers to make contributions to a state compensation fund, was unconstitutional. The lower courts had dismissed the complaint on the ground that the challenged law was constitutional. This Court affirmed the dismissal, "but solely on the ground that, in the appropriate exercise of the court's discretion, relief by way of a declaratory judgment should have been denied without consideration of the merits." *Id.*, at 301–302. The Court, in a unani-

mous opinion written by Mr. Chief Justice Stone, noted first that under long-settled principles of equity, the federal courts could not have enjoined the Louisiana official from collecting the state tax at issue there unless, as was not true in that case, there was no adequate remedy available in the courts of the State. This judicial doctrine had been approved by Congress in the then recent Tax Injunction Act of 1937, 50 Stat. 738, now 28 U. S. C. § 1341. Although the declaratory judgment sought by the plaintiffs was a statutory remedy rather than a traditional form of equitable relief, the Court made clear that a suit for declaratory judgment was nevertheless "essentially an equitable cause of action," and was "analogous to the equity jurisdiction in suits *quia timet* or for a decree quieting title." 319 U. S., at 300. In addition, the legislative history of the Federal Declaratory Judgment Act of 1934, 48 Stat. 955, as amended, 28 U. S. C. § 2201, showed that Congress had explicitly contemplated that the courts would decide to grant or withhold declaratory relief on the basis of traditional equitable principles. Accordingly the Court held that in an action for a declaratory judgment, "the district court was as free as in any other suit in equity to grant or withhold the relief prayed, upon equitable grounds." 319 U. S., at 300. The Court's application of these principles to the specific problem of declaratory judgments relating to the collection of state taxes is worth quoting in full, because it bears so directly on the problem before us in the present case:

> "The earlier refusal of federal courts of equity to interfere with the collection of state taxes unless the threatened injury to the taxpayer is one for which the state courts afford no adequate remedy, and the confirmation of that practice by Congress, have an important bearing upon the appropriate

use of the declaratory judgment procedure by the federal courts as a means of adjudicating the validity of state taxes.

"It is true that the Act of Congress speaks only of suits 'to enjoin, suspend, or restrain the assessment, levy, or collection of any tax' imposed by state law, and that the declaratory judgment procedure may be, and in this case was, used only to procure a determination of the rights of the parties, without an injunction or other coercive relief. It is also true that that procedure may in every practical sense operate to suspend collection of the state taxes until the litigation is ended. But we find it unnecessary to inquire whether the words of the statute may be so construed as to prohibit a declaration by federal courts concerning the invalidity of a state tax. For we are of the opinion that those considerations which have led federal courts of equity to refuse to enjoin the collection of state taxes, save in exceptional cases, require a like restraint in the use of the declaratory judgment procedure." 319 U. S., at 299.

The continuing validity of the Court's holding in the *Great Lakes* case has been repeatedly recognized and reaffirmed by this Court. See, *e. g.*, *Macauley* v. *Waterman S. S. Co.*, 327 U. S. 540, 545, n. 4 (1946); *Ott* v. *Mississippi Barge Line*, 336 U. S. 169, 175 (1949); *Public Serv. Comm'n* v. *Wycoff Co.*, 344 U. S. 237, 253 (1952) (DOUGLAS, J., dissenting); *Allegheny County* v. *Mashuda Co.*, 360 U. S. 185, 189 (1959); *Enochs* v. *Williams Packing Co.*, 370 U. S. 1, 8 (1962). Although we have found no case in this Court dealing with the application of this doctrine to cases in which the relief sought affects state criminal prosecutions rather than state tax collections, we can perceive no relevant difference between the two situations with respect to the limited question whether, in cases where the criminal

proceeding was begun prior to the federal civil suit, the propriety of declaratory and injunctive relief should be judged by essentially the same standards. In both situations deeply rooted and long-settled principles of equity have narrowly restricted the scope for federal intervention, and ordinarily a declaratory judgment will result in precisely the same interference with and disruption of state proceedings that the long-standing policy limiting injunctions was designed to avoid. This is true for at least two reasons. In the first place the Declaratory Judgment Act provides that after a declaratory judgment is issued the district court may enforce it by granting "further necessary or proper relief," and therefore a declaratory judgment issued while state proceedings are pending might serve as the basis for a subsequent injunction against those proceedings to "protect or effectuate" the declaratory judgment, 28 U. S. C. § 2283, and thus result in a clearly improper interference with the state proceedings. Secondly, even if the declaratory judgment is not used as a basis for actually issuing an injunction, the declaratory relief alone has virtually the same practical impact as a formal injunction would. As we said in the *Wycoff* case, *supra*, 344 U. S., at 247:

> "Is the declaration contemplated here to be *res judicata*, so that the [state court] cannot hear evidence and decide any matter for itself? If so, the federal court has virtually lifted the case out of the State [court] before it could be heard. If not, the federal judgment serves no useful purpose as a final determination of rights." See also *H. J. Heinz Co.* v. *Owens*, 189 F. 2d 505, 508–509 (C. A. 4th Cir. 1951).

We therefore hold that, in cases where the state criminal prosecution was begun prior to the federal suit, the same equitable principles relevant to the propriety of an in-

junction must be taken into consideration by federal district courts in determining whether to issue a declaratory judgment, and that where an injunction would be impermissible under these principles, declaratory relief should ordinarily be denied as well.

We do not mean to suggest that a declaratory judgment should never be issued in cases of this type if it has been concluded that injunctive relief would be improper. There may be unusual circumstances in which an injunction might be withheld because, despite a plaintiff's strong claim for relief under the established standards, the injunctive remedy seemed particularly intrusive or offensive; in such a situation, a declaratory judgment might be appropriate and might not be contrary to the basic equitable doctrines governing the availability of relief. Ordinarily, however, the practical effect of the two forms of relief will be virtually identical, and the basic policy against federal interference with pending state criminal prosecutions will be frustrated as much by a declaratory judgment as it would be by an injunction.

For the reasons we have stated, we hold that the court below erred in proceeding to a consideration of the merits of the New York criminal anarchy law. Here, as in the *Great Lakes* case, the judgment dismissing the complaint was based on an adjudication that the statutes challenged here are constitutional and is thus in effect a declaratory judgment. We affirm the judgment dismissing the complaint, but solely on the ground that, in the appropriate exercise of the court's discretion, relief by way of declaratory judgment should have been denied without consideration of the merits. We, of course, express no views on the propriety of declaratory relief when no state proceeding is pending at the time the federal suit is begun.

Affirmed.

For opinion of MR. JUSTICE STEWART concurring in these cases see No. 2.

SUPREME COURT OF THE UNITED STATES

Nos. 7 AND 9.—OCTOBER TERM, 1970

George Samuels et al., Appellants, v. Thomas J. Mackell, District Attorney, et al.	On Appeal from the United States District Court for the Southern District of New York.
Fred Fernandez, Appellant, v. Thomas J. Mackell, District Attorney, et al.	

[February 23, 1971]

MR. JUSTICE DOUGLAS, concurring.

The same New York statutes on anarchy that were sustained in *Gitlow* v. *New York*, 268 U. S. 652, are involved in these cases. It was in that case that Mr. Justice Holmes, with whom Mr. Justice Brandeis concurred, said in dissent:

> "It is said that this manifesto was more than a theory, that it was an incitement. Every idea is an incitement. It offers itself for belief and if believed it is acted on unless some other belief outweighs it or some failure of energy stifles the movement at birth. The only difference between the expression of an opinion and in incitement in the narrower sense is the speaker's enthusiasm for the result. Eloquence may set fire to reason. But whatever may be thought of the redundant discourse before us it had no chance of starting a present conflagration. If in the long run the beliefs expressed in proletarian dictatorship are destined to